

Remarks:

Claims 1-11 are pending in the application and stand rejected. Claims 1-11 have been amended. A replacement specification has been provided herewith. The amendments made to the specification are not connected in any way to any rejection in this application. No new matter has been added.

§112 Rejection

Claims 1-11 are rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the Examiner states that “[t]he claim 1 is incorrect. The rearward articulation at 20, 21, 26, 27 is not directly attached to the vehicle body, but rather indirectly attached through clip 22 and main support 23.” The Applicant has amended claim 1 to remove “directly” and to instead recite “an articulation point arranged in a rearward portion of the at least one bracket attached to the vehicle body.” Support for this amendment can be found in Figures 1-7, which shows the articulation point (20, 21) arranged in a rearward portion of the bracket (14, 15, 25). Withdrawal of this rejection is respectfully requested.

§102 rejection:

Claims 1-11 are rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 4,708,389 issued to Maebayashi et al.

With respect to claim 1, the Examiner states that “Maebayashi et al. discloses (Fig 4C) a top for a convertible vehicle with a flexible roof panel (15), which is attached to an arrangement of convertible-top rods (13) and, in its rear area, to an attachment device (61, 62) of the vehicle body (56), in which a clamping device (32), acting on the flexible roof panel in the region of its attachment to the vehicle body in the closed state of the convertible top, is provided, said clamping device being designed with at least one bracket that forces the flexible roof panel in the closed state of the convertible top against an auto-body closure seal (63), characterized in that the at least one bracket is pivotable with its rearward end around an articulation (33) indirectly attached to the vehicle body via members 32 and 32a and 9.”

For a rejection grounded in anticipation under §102 to be proper, every element and limitation recited in the rejected claim(s) must be found in the cited 102 reference. *See* MPEP § 2131. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Id.*, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). *See also, In re Paulsen*, 30 F.3d 1475 (Fed. Cir. 1994). The MPEP restricts the prior art that may be cited by an Examiner in making a §102(b) rejection to those where the “identical invention [is] shown in as complete detail as is contained in the ... [rejected] claim.” *Id.*, citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989).

The claimed invention is not anticipated. Claim 1 has been amended to recite, in part that the “at least one bracket is pivotable at a rearward end around an articulation point arranged in a *rearward portion* of the at least one bracket attached to the vehicle body.” [emphasis added]. Maebayashi et al. does not disclose “at least one bracket is pivotable *at a rearward end* around an articulation point arranged in a rearward portion of the at least one bracket attached to the vehicle body,” as recited in amended claim 1. Instead, Maebayashi et al. discloses that “[t]he front link 32 has a[n] [articulation] 32a pivotably connected with a rear end 9a of the plate 9.” *See* col. 6, lines 10-12. When a portion of the roof 13 is moved rearward, “the front link 32 is lowered through a rearward swinging movement of the plate 9.” *See* col. 6, lines 16-19. When the front link 32 is lowered, the articulation 32a of front link 32 is also lowered relative to the vehicle body, as indicated by the phantom lines in Figures 5 and 8. Therefore, because the articulation 32a of the front link 32 is lowered relative to the vehicle body, the *rearward end* of the bracket cannot be pivotable around an articulation point arranged in a *rearward portion* of the at least one bracket. Accordingly, claim 1 is allowable for at least this reason.

Claims 2-11 have been amended, however, the amendments to claims 2-11 are not connected in any way with any rejection in this application. Instead, the amendments to claims 2-11 have merely been made to make the claims more readable. Further, claims 2-11, which depend from allowable claim 1, are also allowable for at least the same reason that claim 1 is allowable. Therefore, withdrawal of the rejection of claims 2-11 are respectfully requested.

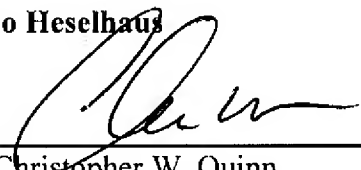
Conclusion

All rejections and objections having been addressed, it is therefore respectfully submitted that the present application is in condition for allowance, and a Notice to that effect is earnestly solicited.

Respectfully submitted,

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By


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